

EXHIBIT C

DEFENDANTS MOTION TO DISMISS

SCDJJ Policy No. 920

Youth Grievance Procedure

STATE OF SOUTH CAROLINA DEPARTMENT OF JUVENILE JUSTICE
POLICY AND PROCEDURES

Title:	Youth Grievance Process	Policy No.:	920	Page(s):	1 of 7
Folder 900:	Rehabilitative Services			Old Policy No.:	I-4.3
Originator	Juveniles and Family Relations Manager				
Juvenile Justice Code:	n/a				
PbS Related Standard(s):	Safety Standard 3; Justice Standard 3				
PREA Compliance:	Yes				
May 02, 2019 Effective Date	<u><i>SIGNED/ Freddie B. Pough</i></u> Freddie B. Pough Director				

The South Carolina Department of Juvenile Justice's School District does not discriminate in any programs or activities on the basis of race, color, national origin, sex, disability or age. The following offices have been designated to handle inquiries regarding the school district's nondiscrimination policies: Title IX - Inspector General's Office - 220 Executive Center Drive, Winthrop Building, Columbia, SC 29210 – Ph: 803-896-9595; 504 Special Education Office, 220 Executive Center Drive, Winthrop Building, Columbia, SC 29210 – Ph: 803-896-8484.

POLICY: The South Carolina Department of Juvenile Justice (SCDJJ or Agency) will provide a timely and fair resolution of complaints from youth under the jurisdiction of SCDJJ. Youth may file a grievance regardless of any status or situation. Equal access to the grievance process will be provided for youth with disabilities.

DEFINITIONS:

1. Grievance: A written or oral complaint filed by a youth or other involved person concerning an incident, policy, practice or condition within a facility, program, school, medical unit, or county office (hereinafter referred to as Unit).
2. Appeal: The process by which a youth requests reconsideration of the decision made on a grievance.
3. Facility Administrator: The senior manager of a facility, office, or work unit.
4. Substantiated: An allegation that was investigated and determined to have occurred.
5. Unsubstantiated: An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
6. Unfounded: An allegation that was investigated and determined not to have occurred.

PROCEDURAL GUIDELINES:

- A. The following complaints will be investigated through the Youth Grievance Process:
 1. Allegations that a department or facility policy, procedure or rule violates the rights of a youth as set forth in Policy 918, Youth Rights and Responsibilities, or that such policy or procedure has been unfairly implemented.

Title: Youth Grievance Process	SCDJJ Policy No.: 920	Originator: Juvenile and Family Relations Manager	Page: 2 of 8
--------------------------------	-----------------------	---	--------------

2. Allegations that staff failed to respond and/or to report an allegation of abuse or neglect.
3. Allegations that staff intimidated or retaliated against a youth either through written reprimand of a youth, withholding of privileges or any such punitive measure against a youth for filing any type of grievance or complaint and/or for participating in some other way in the Youth Grievance Process.
4. Allegations that staff failed to provide a youth access to the Youth Grievance Process by refusing to provide a youth with a grievance form, refusing to assist a youth with filling out the grievance form, or refusing to allow a youth to place a completed form in a grievance box.
5. Allegations that quality of life issues occurring within any SCDJJ facility have had a negative effect on a youth personally.
6. Allegations that a youth was denied access to health care or that the health care was not appropriate or adequate.
7. Allegations that a youth was discriminated against by staff, other youth, or third parties.
8. Any other matter relating to the welfare of a youth in the care and custody of SCDJJ, unless otherwise prohibited in this process.
9. Allegations of verbal abuse directed towards a youth by staff or another youth without any element of physical abuse.

B. Emergency Grievances

In the event that a grievance or allegation details threatened or imminent harm to a youth, it will be considered an emergency grievance.

After receiving an emergency grievance (a Priority 1 Event Report) alleging that a youth is subject to a substantial risk of imminent abuse, either physical or sexual, the Grievance Coordinator will immediately forward the grievance to the level of Management review (Facility Administrator, Captain of Security/Supervisor, PREA Coordinator, PREA Compliance Manager) at which the immediate corrective action may be taken by Institutional Services Management. The Division of Institutional Services will provide an initial response within 24 hours, and will issue a final decision within five (5) calendar days. The initial response and final agency decision will document the Agency's determination whether the youth is in substantial risk of physical or sexual abuse and the action taken in response to the emergency grievance.

Title: Youth Grievance Process	SCDJJ Policy No.: 920	Originator: Juvenile and Family Relations Manager	Page: 3 of 8
--------------------------------	-----------------------	---	--------------

C. The following complaints will not be investigated through the Youth Grievance Process, but will, if received, be referred to the appropriate entity by the Office of Juvenile and Family Relations (OJFR):

1. Complaints of physical abuse, sexual abuse, intentional threats of physical or emotional harm or criminal wrong-doing reportable under the Event Reporting System (ERS). OJFR will refer these complaints to the Division of Investigative Services for investigation and action through the ERS process including any allegation involving sexual violence as outlined in policy 321, Prevention of Sexual Offenses toward Youth;
2. Complaints about judicial or parole decisions;
3. Decisions regarding determinate sentence good behavior credit; and,
4. Complaints regarding requirements of local, state, or federal laws and regulations or other matters beyond the control of SCDJJ.

D. Filing a Youth Grievance

1. Each residential facility will be responsible for providing orientation to ensure that youth are informed of their right to file grievances and report allegations of abuse or neglect. The Facility Administrator will ensure that Youth Grievance Forms (Form 920A) and collection boxes are available in common locations accessible to youth, and that youth, all staff, attorneys, outside advocates and youth's parents and/or legal guardians know where forms and boxes are located and that they are each encouraged to assist a youth with and/or to file a grievance on behalf of a youth.
2. For youth served in the community, SCDJJ County Offices will inform youth, all staff, attorneys, outside advocates and youth's parents and/or legal guardians of their right to file grievances and to report allegations of abuse or neglect.
3. A youth's request to obtain a form must be fulfilled by the unit no later than the end of the shift during which the request was made. When a youth requests assistance in completing and submitting the form, staff are required to provide assistance and keep the matter confidential. At no time will a youth be punished or harassed for having a grievance form in his/her possession.
4. In secure facilities, youth will place completed Youth Grievance Forms in the locked grievance box located in a central area easily accessible to all youth. The OJFR and/or designated SCDJJ staff is responsible for collecting forms from each unit no less than twice a week.
5. In a County Office or community-based facility or program, the County Office Manager and/or Executive Director will ensure that Youth Grievance Forms are

Title: Youth Grievance Process	SCDJJ Policy No.: 920	Originator: Juvenile and Family Relations Manager	Page: 4 of 8
--------------------------------	-----------------------	---	--------------

faxed to (803) 896-9040 or emailed to JuvenileGrievance@djj.sc.gov within 24 hours of receipt and retain the confirmed delivery document for verification.

6. There is no time limit for making a report of a grieved issue or other allegation although, prompt reporting will be encouraged so that a full and complete investigation can be done.

E. Processing a Youth Grievance

1. OJFR Coordinators collecting Youth Grievance Forms will assign each form a number and will enter the information into a grievance database.
2. Using the criteria in paragraphs B and C of this policy, the OJFR Coordinator will determine if the matter is appropriate for handling in the Youth Grievance Process. When a form contains a complaint not appropriate for handling in the Youth Grievance Process, the OJFR Coordinator will return the form to the youth with an explanation of why it is not appropriate for handling by the Youth Grievance Process or he/she will forward the information to the appropriate investigative section or unit manager.

Any allegation which alleges sexual abuse, physical abuse or any other criminal wrong-doing, the OJFR Coordinator will immediately forward the allegation to the Division of Investigative Services via <https://ERS.scdjj.net>. The OJFR will also enter the allegation into the Access database.

3. When a form contains a complaint appropriate for the Youth Grievance Process, the OJFR Coordinator will conduct an impartial investigation of the grievance to determine if the complaint is substantiated, unsubstantiated or unfounded. If an OJFR Coordinator is the subject of a grievance, he/she will recuse him/herself from the investigation and the allegation will be handled by an impartial investigator in the Division of Investigative Services. Youth will be interviewed within 10 business days of receipt of the grievance form, if possible, and at that time a youth or other grievance filers will have the opportunity to present witnesses to be interviewed and to provide other evidence to support the grievance. The accused will be interviewed as well as their witnesses. A written response of the investigative outcome will be given to the youth who initiated the grievance within 30 business days, unless additional time is needed at the conclusion of the investigation to allow adequate time for response from a Facility Administrator and conclusion of any appeal conducted by the Division of Investigative Services. Should an extension of time be needed for any reason, the youth will be notified in writing that such an extension has been granted with a new outcome date provided to them.
4. If in the course of initiating the investigation a youth declines to have the grievance processed on his or her behalf, the OJFR Coordinator will document the youth's

Title: Youth Grievance Process	SCDJJ Policy No.: 920	Originator: Juvenile and Family Relations Manager	Page: 5 of 8
--------------------------------	-----------------------	---	--------------

decision and will retain all related paperwork as he/she would a completed grievance.

5. The OJFR Coordinator will record the findings and results of the investigation in the assigned Access database and will keep hard copies of all investigative notes and evidence in a locked room. The OJFR Coordinator will write a written explanation of the investigative decision in the specified location on the Youth Grievance Form, and the form will be returned by the OJFR Coordinator to the youth as confirmation of the completed investigation. A copy of the Grievance Form will be hand-delivered or mailed to the youth by the OJFR Coordinator. Copies of all substantiated, unsubstantiated, and unfounded grievances will be retained on file with the OJFR for three (3) years after which time the grievance information will be filed with Archives. The Facility Administrator will keep the grievance information, findings, and all related forms in a confidential unit grievance file and will submit a plan of action to the OIG for each substantiated grievance memorandum within 15 business days of receipt.
6. Copies of grievances or grievance memorandums will not be filed in any youth's record or in any other record or file in the living unit, school, or social worker's office. The intent of separation of files is to prevent potential retaliation against a youth for filing a grievance and using the grievance process.
7. Unfounded grievances end the grievance process, unless appealed by the youth. Unsubstantiated grievances will generate an informational memorandum by the OJFR Coordinator. The Facility Administrator and/or Deputy Director will address the informational memoranda as needed for quality assurance and future improvement. Substantiated grievances will be handled according to Section H of this policy.

F. Youth Grievance Appeals

1. A youth may appeal unfounded grievances to the Division of Investigative Services by completing the bottom section of the Youth Grievance Form within 30 days of receiving a final response from the OJFR. This does not include the time necessary to prepare the appeal process. The youth will place the form in the locked grievance box, where it will be collected by the OJFR Coordinator who will forward to the Division of Investigative Services.
2. Within 15 business days, the Division of Investigative Services will review the appeal and will respond in writing directly to the youth with its findings. A copy will be provided to the OJFR. If the Division of Investigative Services determines the original grievance to be unfounded or unsubstantiated, the grievance process is ended. If the Division of Investigative Services determines the original grievance to be founded, the grievance will be handled according to Section H of this policy. The OJFR will notify the youth of the decision made by the Division of Investigative Services.

Title: Youth Grievance Process	SCDJJ Policy No.: 920	Originator: Juvenile and Family Relations Manager	Page: 6 of 8
--------------------------------	-----------------------	---	--------------

G. Facility Administrator Grievance Appeal Process

1. Within 30 business days, the Facility Administrator and/or the subject of the investigation, may appeal substantiated grievances to the Inspector General (IG) by submitting an appeal memorandum that includes the reason(s) for appeal, supporting documentation, and a copy of the initial grievance form. The Facility Administrator will copy the OJFR on the appeal memorandum and the information will be entered into the youth grievance database. The Facility Administrator will keep a copy of the appeal memorandum in a confidential unit grievance file. Copies will not be filed in the youth's record or in any other record or file in the unit.
2. Within 15 business days, the IG will review the appeal and will respond in writing with its findings directly to the Facility Administrator. If the IG determines the original grievance to be unfounded, the grievance process is ended and no further action is required by the Facility Administrator. The OJFR will notify the youth of the change of outcome and provide the youth with an explanation of why the decision was made. If the IG determines the original grievance to be founded/substantiated, the grievance will be handled according to Section H of this policy.

H. Grievance Plans of Action

1. For each substantiated grievance, the Deputy Director will ensure a grievance plan of action is submitted to the IG within 15 business days of receipt of the final decision. This plan of action will indicate how the grievance has been or will be resolved within 30 business days of the grievance being founded. The purpose of the plan of action is to prevent recurrence of any subject grievance and to correct its effects. Deputy Directors may request extensions from the IG, if needed.
2. If the IG determines that the grievance plan of action does not adequately address the youth's grievance, the IG or his/her designee will meet with the Deputy Director to resolve any remaining issues.
3. Youth alleging abuse of a physical or sexual nature are not required to participate in an informal grievance process or otherwise attempt to resolve an alleged incident of abuse with staff.

I. Prohibitions

1. SCDJJ employees are subject to disciplinary action in accordance with SCDJJ Policy 228, Progressive Employee Discipline, if they are determined to have:
 - a. Failed to assist a youth in completing and/or submitting a grievance form;
 - b. Denied a youth access to a grievance form;

Title: Youth Grievance Process	SCDJJ Policy No.: 920	Originator: Juvenile and Family Relations Manager	Page: 7 of 8
--------------------------------	-----------------------	---	--------------

- c. Failed to cooperate with an OJFR investigation;
- d. Withheld a grievance form from processing;
- e. Retaliated against a youth or other staff member for participating in the grievance process; and/or
- f. Used intimidation at any level to induce a youth not to file a grievance, to rescind a grievance, or to amend a grievance.

2. Youth who include false, threatening, obscene and/or profane statements in the Youth Grievance Form or attachments will be subject to appropriate disciplinary action in accordance with SCDJJ Policy 924, Youth Behavior Management Incentive System and Progressive Discipline as deemed by the facility.

RELATED FORMS AND ATTACHMENTS:

Form 920A, Youth Allegation/Grievance and Appeal Form (I-4.3A)

REFERENCED POLICIES:

918, Youth Rights and Responsibilities (I-4.2)

321, Prevention of Sexual Offenses toward Youth (H-3.15)

228, Progressive Employee Discipline (B-3.15)

924, Youth Behavior Management Incentive System and Progressive Discipline (G-9.19)

RELATED PERFORMANCE-BASED STANDARDS (PbS)

The selected set of standards and goals that DJJ uses to prepare continuous improvement plans based on data, outcome measures, expected practices, and processes.

Safety Standard 3 – Protect staff and youths from fear. (SaEP24)

Justice Standard 3 – Administer the rules and policies for staff and youths fairly and consistently and offer effective means of redress of grievances or violation of rights. (JEP8 and JEP9)

SCOPE:

This policy applies to all employees, facilities, offices and programs of SCDJJ.

STANDARD OPERATING PROCEDURES:

This information is required to be a component of each residential standard operating procedures for youth orientation.

TRAINING REQUIREMENT:

All employees are required to review this policy within 30 calendar days of its publication.

UPDATED:

January 25, 2022, “juvenile” changed to “youth” where possible, updated juvenile grievance email address

Title: Youth Grievance Process	SCDJJ Policy No.: 920	Originator: Juvenile and Family Relations Manager	Page: 8 of 8
--------------------------------	-----------------------	---	--------------

May 22, 2019, Policy number correction

February 19, 2019, New policy and form numbers

January 17, 2019, Policy number change

September 14, 2018, Agency and policy reorganization